

December 2005

Issue 5

Quarter 4 2005

JACAL NEWS

Johnston Associates Chartered Accountants Limited

202 Ponsonby Road, Ponsonby. PO Box 91 842, Auckland 1030

Phone 09 361 6701, Fax 09 361 6702, www.jacal.co.nz

BUSINESS VEHICLE OWNERS BEWARE

FLIP LEASES to become FLOP LEASES?

Proposed changes to the Fringe Benefit Tax (FBT) rules are likely to have a major impact on the continued use of 9 to 5 or flip leases. In this year's budget, the Government indicated its intention to make legislative changes that would effectively bring 9 to 5 or flip leases into the FBT regime.

Therefore, taxpayers who currently operate a 9 to 5 or flip lease will have to consider their options, including;

- Continue to operate with the 9 to 5 or flip lease and incur FBT,
- Terminate the lease, transfer the vehicle into the Company and incur FBT,
- Terminate the lease, retain ownership personally, and receive a reimbursement from the Company for any business related use of the vehicle.

Taxpayers who are contemplating the purchase of a new vehicle will also have to consider their options, including purchasing the vehicle in the Company's name and incurring FBT or purchasing the vehicle personally and being reimbursed for business use. This decision will depend on a number of factors, such as the value of the vehicle, the availability of the vehicle for personal use and the length of time the vehicle is owned. You will need to discuss your circumstances with your JACAL advisor to determine the best option.

At present the proposals have not been enacted, and may change before the Bill is passed, until then we can only speculate as to what the final outcome will be. The proposed changes are intended to come into effect on 1 April 2006. Be assured that our advisers are looking into this matter and we will update you with any new developments.

ACC SUCCESS STORY

In our August 2005 newsletter we introduced the service enabling JACAL to act as agent for our clients in regards to their ACC matters. A few clients have taken advantage of this service and we would like to highlight the outcome of one review recently performed by JACAL.

This particular client offered consulting and management services, however, their ACC classification was recorded as wholesaler. The wholesaler rate was almost double that of consultancy/management services.

We advised ACC of this error. ACC requested proof that the client was only providing consultancy/management services, which we duly provided. Once satisfied, ACC reassessed the 2004/2005 and 2005/2006 provisional invoices under the new classification rate. We then requested ACC to reassess under the new classification rate going back to 2001 when the first invoice was issued.

As a result of this exercise our client has saved approximately \$1,150 for the 2004/2005 and 2005/2006 invoices, with further credits to be received from the previous years.

If you have any concerns about your ACC Levies or invoices and would like assistance to review your payments, please contact your JACAL advisor.

THIS ISSUE::

- BUSINESS VEHICLE OWNERS BEWARE – FBT CHANGES

- ACC SUCCESS STORY

- HOLIDAYS ACT Q&A'S FOR THE SILLY SEASON

- KIWISAVER – IRD SAVINGS SCHEME

- WITHHOLDING PAYMENTS AND GST

- JACAL OFFICE CHRISTMAS HOURS

STUDENT LOAN REPAYMENTS

Student loans are required to be repaid at the minimum rate of 10 cents (10%) in every dollar over the threshold of \$16,588. If you wish to pay back more than this, or you wish to start repaying your loan even if your income is below the threshold, please contact our office for further details.

WEBSITES

The cost of creating a website is a capital expense. It should be depreciated like any other software. Maintaining it is tax deductible. There are grey areas, eg. significant upgrading can be capital.

BUILDERS AND DEVELOPERS

Tax law is complicated for anyone involved in property development. Your home and rental properties can get caught in the tax net. Your relatives, particularly your spouse, can also find themselves similarly caught. Check carefully with us if you are contemplating any property development.

CONTACT DETAILS CHANGED?

Please ensure you advise our office of changes to any of your contact details. Phone Amanda on 09 361 6701 or email aashman@jacal.co.nz. If you have received this newsletter by post and would prefer an email version, please let us know.

HOLIDAYS ACT Q&A's FOR THE SILLY SEASON

- 1. What do I pay my staff for a public holiday if they don't work on the day and take the holiday?** Their relevant daily pay (see question 2), if the day is otherwise a working day for them. If the public holiday falls on a day that is not otherwise a working day for them, they receive no payment for the day.
- 2. What is 'relevant daily pay'?** The amount of pay the employee would have received if they had worked that day but not including the time and a half payment for working on a public holiday (see question 3). Relevant daily pay includes things like overtime, productivity and/or incentive payments and penal rates. If you can't work out what the employee would have received if they worked, you can divide their gross earnings over the previous four weeks by the number of days worked to get an average.
- 3. What do I pay my staff for working on a public holiday?** If staff work on a public holiday that falls on a working day for them, pay the higher of their relevant daily pay (less penal rates) for time actually worked plus half the amount again; or relevant daily pay for the time actually worked. What this means is that if the employment agreement sets a special rate for work on a public holiday that is higher than basic relevant pay plus 50%, you pay the employment agreement rate.
- 4. Are staff entitled to take time off for having worked on a public holiday?** Staff are entitled to a day off paid at relevant daily pay ('an alternative holiday') if they have worked on any part of a public holiday that is a working day for them. This is in addition to the payments in question 3.
- 5. What do I pay staff for working, say, three hours on a public holiday and do they still get a whole alternative holiday?** Staff will get the payments set out in question 3 and a whole day off (an alternative holiday) despite only working three hours on the public holiday. For an alternative holiday they are paid their relevant daily pay.
- 6. Can I require staff to work on a public holiday?** You can if the public holiday falls on a day that is a working day for them, and they are required to work on a public holiday in their employment agreement.
- 7. When can they take an alternative holiday?** This holiday should be taken by agreement between you and your employee. It must be taken on a day that is a working day for them and it should be a whole day off (no matter how long they worked on the public holiday). If you can't agree on when the alternative holiday can be taken, your employee can give you 14 days notice of when they want to take the holiday. You can require staff to take an alternative holiday only after 12 months has expired and the alternative holiday has still not been taken. You must give them 14 days notice.
- 8. Can I still operate a Christmas close down and if so, what do I have to do?** Yes. You can operate one close down per year. Give staff at least 14 days notice of your intention to close down and your requirement for staff to take annual holidays or discontinue work.
- 9. How do I calculate holiday pay for annual holidays/annual leave?** Staff must be paid the higher of their ordinary weekly pay; or their average weekly earnings. 'Ordinary weekly pay' is the pay they receive under their employment agreement for an ordinary working week (including productivity payments and overtime). Average weekly earnings is an employee's gross earnings divided by 52. For employees who have worked less than 12 months, pay 6% of their gross earnings if they are entitled to 3 weeks holidays a year or 8% if they are entitled 4 weeks holidays a year.
- 10. What happens if an employee resigns during the Christmas holidays?** If an employee has untaken annual holidays when they resign, you will need to count forward from their last day of work the number of days untaken annual leave. Any public holidays that fall within this period will increase the amount of annual leave payable to them on their last day of work.
- 11. What do I pay an employee who gets sick while on their annual holidays?** You may allow the employee to substitute sick leave for annual holidays in these circumstances. Sick leave is paid at the employee's relevant daily pay.

Everyone has a photographic memory. Some just don't have film.

BIGGER BUSINESS

There were 334,340 businesses in February 2005, an increase of 3.1% from February 2004, following a 9.9% increase in the previous year.

The manufacturing sector is the largest employer with approximately 268,200 employees in February 2005.

Almost two-thirds of the total growth in business numbers in February 2005, compared with 2004, was in enterprises with one to five employees.

Less than 1% of enterprises in NZ had 100 or more employees, but this group accounted for 47% of all employees in NZ.

The boost in business number came from property and business services (up 3,970), followed by construction (up 2,680). Property and business services was the industry with the largest number of businesses, representing over a third of all enterprises in NZ.

IRD CHANGES TO MILEAGE RATES

In September the IRD confirmed by media release that employers can now use rates published by a "reputable NZ source" (eg AA) to reimburse staff who use their own vehicles for work purposes.

Instead of increasing the IRD rates as first established in February 1996, IRD opted to allow employers the additional option of reimbursing their employees. Those clients currently using the 1996 rates may benefit from these changes.

KIWISAVER

IRD WORK-BASED SAVINGS SCHEME

KiwiSaver is a voluntary, work-based savings scheme, due to start in April 2007, to help New Zealanders save. In general, Inland Revenue will administer the scheme using the existing PAYE tax system.

The initiative was announced in Budget 2005 as part of the Securing Your Future package. The government expects to introduce legislation towards the end of 2005, so that the scheme can be passed into law in 2006.

Under the proposal:

- Employees over 18 will be automatically enrolled into KiwiSaver when they start a new job, but can opt out within three weeks if they choose to
- Existing employees and workers under 18 will be able to join if they wish
- Contributions will be at 4% or 8% of gross salary and will be "locked in" except for certain circumstances (such as hardship, illness or retirement)
- After a minimum of three years in the scheme, savings may be used to contribute toward a deposit on a first home
- Self-employed and beneficiaries may join but need to make payments directly to Inland Revenue
- The government will make an upfront contribution of \$1,000 per person (to be "locked in" until the recipient reaches the age of eligibility for NZ Superannuation or for five years whichever is the greater) and provide a fee subsidy

Savers will be able to select their own fund and can change fund providers, but can only have one provider at any time. Those who do not specify a fund will be randomly allocated to a default provider. Savers can stop contributions for up to five years at a time by applying for a "contribution holiday".

Employers will have responsibility for:

- Distributing a KiwiSaver information pack (as provided by Inland Revenue), to their employees outlining how the scheme works, and
- Deducting employees' contributions and forwarding them to Inland Revenue along with PAYE.

Employers will not be required to choose a KiwiSaver scheme for their employees to join but they may do so if their employees wish. Employers may use the infrastructure provided by the government through KiwiSaver to contribute to their employees' accounts, with some flexibility over the terms and conditions of those payments.

Existing superannuation schemes will have the option of converting to KiwiSaver, subject to certain criteria. Members of other schemes may choose to open a KiwiSaver account, instead of or as well as, their existing scheme.

More information about KiwiSaver is available on Inland Revenue's website www.ird.govt.nz/kiwisaver/

Some mistakes are too much fun to only make once.

TRUST GIFTING

Many people who have family trusts overlook their annual gifting.

Each person is allowed to give away up to \$27,000 in any 12 month period. There needs to be a Deed of Forgiveness of Debt and a special form filled out for the IRD. If you forget to attend to your annual gifting you cannot go back. The time is lost. Gift statements have to be lodged with IRD within three months of making the gift.

Please contact our office if you require information about gifting.

2005 ANNUAL ACCOUNTS

If we have not received your 2005 Financial Information by late January we cannot guarantee completion of your annual accounts before the end of March 2006. This means you will not be fulfilling your IRD tax commitments.

If you are unsure what information we require, please download our annual client questionnaire from our website www.jacal.co.nz or contact Amanda on 09 361 6701.

Johnston Associates

202 Ponsonby Road
Ponsonby, Auckland
PO Box 91 842
Auckland 1030
Phone: 09 361 6701
Fax: 09 361 6702
Email: admin@jacal.co.nz

Visit us on the web:
www.jacal.co.nz

WITHHOLDING PAYMENTS & GST

If you are in business and hire a salesperson on a "contract for service" you should pay them withholding payments and deduct withholding tax. The *Tax Code declaration (IR 330)* form contains a list of all the occupations subject to withholding tax and the amount deducted from each dollar earned.

If they are also registered for GST, they will charge GST on goods and/or services supplied. This means their gross earnings will increase by the GST charged.

Withholding tax is deducted even if the person is registered for GST. The only time you don't need to deduct with-holding tax is:

- if you've been provided with a certificate of exemption
- for payments to non-resident contractors if they are allowed total relief from tax through a double tax agreement, and are present in NZ for a total of 92 days or less in any 12 month period
- for payments to Maori authorities, public authorities and local authorities relating to any work or service performed by it.
- for payments made to a company in relation to any work or services performed by it.

Show the WT tax code when completing the IR 348 for a withholding payment recipient.

If you have any questions relating to withholding payments and GST, please contact our office.

OFFICE HOURS FOR CHRISTMAS

The Directors and team at Johnston Associates would like to wish you all the very best for the festive season.

Our office will be closed from midday on Friday 23rd December until Monday 16th January 2006.

For any urgent matters, please contact Rick Johnston (0274 740 154), Willy Johnston (0274 755 124) or Logan Granger (027 283 8331).

We look forward to continuing our association with you in the New Year.

Please Note:

CHRISTMAS IS CANCELLED

**Apparently, YOU told Santa that
you have been GOOD this year ...**



He died laughing